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Jury Acquits Two of Conspiring To Smuggle Planes to Portugal

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BUFFALO, Oct. 13—A Federal

District Court jury tonight found a gray-haired French nobleman and a black goateed former Royal Air Force fighter pilot innocent of conspiring to smuggle World

War II-type B-26 bombers to Portugal.

The jury of ten men and two women returned their verdict at 10:15 p.m. after five hours of deliberation.

Acquitted on all counts were Count Henri M. F. de Marin de Montmarin, 58, a Paris airplane broker, and John R. Hawke, 29, a professional flier now living in Fort Lauderdale, Fla.

Hawke claimed the Central Intelligence Agency was secretly behind the scheme and that he believed he was in effect working for the U.S. Government when he flew the planes abroad.

The jury foreman, Dr. Wallace B. Fox, said in an interview that the jury "deprecated" the CIA claim, and based its decision on a judgment that Hawke was "just an instrument" for the seller of the planes, Gregory R. Board, 45, Tucson, Ariz., businessman, who was indicted but who left the country before he could be arrested. He is believed to be in Jamaica.

The indictment had charged the two with conspiring to violate the Munitions Control Act, which makes it illegal to

export certain weapons of war without State Department permission. In addition, two substantive counts charged them with actually exporting two airplanes to Portugal via Western New York.

The case went to the jury after a one-hour charge by Judge John O. Henderson. He said that if the panel found any evidence of Government participation in the exports they must acquit the defendants under the legal doctrine of "entrapment."

The highlight of the 3½-week-long trial was the appearance on the witness stand of Lawrence R. Houston, top lawyer for the Central Intelligence Agency. Houston appeared, under defense subpoena, in place of CIA Director Richard Helms.

Houston testified that the CIA learned of the bomber exports in May, 1965, almost a week before the first of seven airplanes left the United States. He said his agency had no jurisdiction and merely informed other Government groups that Portugal had purchased 20 of the Douglas attack bombers.